

effort which the Contractor displays in subcontracting with small concerns, particularly for development type work likely to result in later production opportunities, and overall effectiveness of the Contractor in subcontracting with and furnishing assistance to small concerns should be considered. Conversely, failure or unwillingness on the part of the Contractor to support Government small business policies should be viewed as evidence of poor performance for the purpose of establishing a profit objective.

(H) *Labor surplus area participation.* A similar review and evaluation (as required in paragraph (b)(4)(v)(G) of this section) should be given to the Contractor's policies and procedures supporting the Government's labor surplus area program pursuant to FAR part 20. Particular favorable consideration should be given to a Contractor who: (1) Makes a significant effort to help find jobs and provide training for the hardcore unemployed, or (2) promotes maximum subcontractor utilization of certified-eligible concerns, as defined in FAR 20.101.

(I) *Extent of Government assistance.* The Government encourages its Contractors to perform their contracts with the minimum of financial, facilities, or other assistance from the Government. Where extraordinary financial, facilities, or other assistance must be furnished to a Contractor by the Government, such extraordinary assistance should have a modifying effect in determining what constitutes a fair and reasonable profit or fee.

(J) *Effect of competition.* When competition is effective and proposals are on a firm-fixed-price basis, the Contracting Officer normally need not consider in detail the amount of estimated profit included in a price. When effective competition is lacking, and in all cases where cost analysis is performed in accordance with FAR subpart 15.8, the estimate for profit, target profit or fee, or the proposed fixed fee should be analyzed in the same manner as all other elements of price.

[49 FR 8843, Mar. 8, 1984; 49 FR 24734, June 15, 1984]

1515.970-3 Documentation.

Determination of the profit or fee objective, in accordance with this subpart shall be fully documented. Since the profit objective is the Contracting Officer's pre-negotiation evaluation of a total profit allowance for the proposed contract, the amounts developed for each category of cost will probably change in the course of negotiation. Furthermore, the negotiated profit will probably vary from the profit objective and from the prenegotiation detailed application of the weights to each element of the Contractor's input to total performance. Since the profit objective is viewed as a whole rather than as its component parts, insignificant variations from the prenegotiation profit objective, as a result of changes to the Contractor's input to total performance, need not be documented in detail. Conversely, significant deviations from the profit objective necessary to reach a final agreement on profit or fee shall be explained in the record of negotiation prepared in accordance with FAR 15.808.

Subpart 1515.10—Preaward, Award, and Postaward Notifications, Protests, and Mistakes [Reserved]

PART 1516—TYPES OF CONTRACTS

Sec.

1516.000 Scope of part.

Subpart 1516.3—Cost-Reimbursement Contracts

1516.301-70 Payment of fee.

1516.303 Cost-sharing contracts.

1516.303-71 Definition.

1516.303-72 Policy.

1516.303-73 Types of cost-sharing.

1516.303-74 Determining the value of in-kind contributions.

1516.303-75 Amount of cost-sharing.

1516.303-76 Fee on cost-sharing contracts by subcontractors.

1516.303-77 Administrative requirements.

1516.307 Contract clauses.

1516.370 Solicitation provision.

Subpart 1516.4—Incentive Contracts

1516.404-2 Cost-plus-award-fee contracts.

1516.404-270 Scope.

1516.404-271 Applicability.

Environmental Protection Agency

1516.303-73

1516.404-272 Definitions.
1516.404-273 Limitations.
1516.404-274 Waiver.
1516.405 Contract clauses.

Subpart 1516.5—Indefinite-Delivery Contracts

1516.505 Contract clauses.

Subpart 1516.6—Time-and-Materials, Labor-Hour, and Letter Contracts

1516.603 Letter Contracts.
1516.603-3 Limitations.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

SOURCE: 49 FR 8852, Mar. 8, 1984, unless otherwise noted.

1516.000 Scope of part.

This part implements and supplements FAR part 16. It provides policy and procedures for cost-plus-award-fee type contracts and prescribes additional contract clauses for use with cost-reimbursement and indefinite-delivery type contracts.

Subpart 1516.3—Cost-Reimbursement Contracts

1516.301-70 Payment of fee.

The policy of EPA for cost-reimbursement, term form contracts is to make provisional payment of fee (i.e. the fixed fee on cost-plus-fixed-fee type contracts or the base fee on cost-plus-award-fee type contracts) on a percentage of work completed basis, when such a method will not prove detrimental to proper contract performance. Percentage of work completed is the ratio of the direct labor hours performed in relation to the direct labor hours set forth in the contract in clause 1552.212-70, "Level of Effort—Cost Reimbursement Term Contract." Provisional payment of fee will remain subject to withholding provisions, such as 48 CFR 52.216-8, Fixed Fee.

[56 FR 43711, Sept. 4, 1991]

1516.303 Cost-sharing contracts.

1516.303-71 Definition.

Cost-sharing is a generic term denoting any situation where the Government does not fully reimburse a contractor for all allowable costs nec-

essary to accomplish the project under the contract. This term encompasses cost-matching and cost-limitations, in addition to cost-sharing. Cost-sharing does not include usual contractual limitations such as indirect cost ceilings in accordance with FAR 42.707, or ceilings on travel or other direct costs. Cost-sharing contracts may be required as a result of Congressional mandate.

[61 FR 14504, Apr. 2, 1996]

1516.303-72 Policy.

(a) The Agency shall use cost-sharing contracts where the principal purpose is ultimate commercialization and utilization of technologies by the private sector. There should also be a reasonable expectation of future economic benefits for the contractor and the Government beyond the Government's contract.

(b) Cost-sharing may be accomplished by a contribution to either direct or indirect costs, provided such costs are reasonable, allocable and allowable in accordance with the cost principles of the contract. Allowable costs which are absorbed by the contractor as its share of contract costs may not be charged directly or indirectly to the Agency or the Federal Government.

(c) Unsolicited proposals will be considered on a case-by-case basis by the Contracting Officer as to the appropriateness of cost-sharing.

[61 FR 14504, Apr. 2, 1996]

1516.303-73 Types of cost-sharing.

(a) Cost-sharing may be accomplished in various forms or combinations. These include, but are not limited to: cash outlays, real property or interest therein, personal property or services, cost matching, or other in-kind contributions.

(b) In-kind contributions represent non-cash contributions provided by the performing contractor which would normally be a charge against the contract. While in-kind contributions are an acceptable method of cost-sharing, should the booked costs of property appear unrealistic, the fair market value of the property shall be determined pursuant to 1516.303-74 of this chapter.